

PART 139 PETITION FOR EXEMPTION TO FAR 121.354

To: Mr. Stanton C. Woodbury
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Petitioner: Air Tahoma, Inc.
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Request: Temporary Exemption from FAR 121.354 as it applies to Air Tahoma's Convair 580 all cargo aircraft operated under Part 121.

Timeframe: Immediate exemption lasting up to 180 days after final rulemaking is complete on the proposed weight increase under Part 135.

Rational: Under proposed Part 135 rulemaking, the Convair 580 all cargo aircraft will be exempt from FAR 121.354. Compliance with this section during the interim period will put undue financial hardship on the operator.

A major item under consideration in the rewrite of Part 135 is the increase in payload to 18,000 under Part 135. If adopted, the convair 580 (14,000 lbs) would be operated under Part 135. Part 135.154 clearly exempts cargo aircraft "airplanes configured for fewer than 6 seats". The FAA's intent to exempt cargo aircraft was clearly spelled out in their comments associated with the rulemaking process.

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Several proposals are on the table that would increase the payload under Part 135 prior to a full rewrite of the section. While attending the May, 2004 Regional Air Cargo Carriers Association (RACCA) meeting in Scottsdale, Arizona, Ms. Katherine Perfetti, who is overseeing the rewrite for the FAA, indicated that the weight increase could come as early as 12 months from now. As such, it is possible that our Convair 580 aircraft will be governed by Part 135 as early as June 2005, which is 90 days after the required implementation of Part 121.354.

Without relief, Air Tahoma will be forced to spend approximately \$400,000 to develop an STC's, purchase equipment, and install the new systems to upgrade its fleet. Shortly thereafter it will not be required to maintain the system.

Air Tahoma continues to bear the burden of operating under Part 121 while its Part 125 competitors openly solicit the same type of aircraft to the same customers in the same market. The intent of the Part 135 rewrite is to correct this Part 125 abuse. However, Part 125 operators will not be forced to upgrade their systems as they are currently exempt under Part 125 and they will be exempt when they are permitted to move their operations under Part 135.

Safety: The FAA has already addressed the safety issues associated with all cargo Part 135 operators in its rulemaking comments prior to issuing the final Part 121.354 and Part 135.154 rule.

Summary for publishing in the Federal Register:

1. Part 139 petition for exemption to FAR 121.354
2. Temporary Exemption from FAR 121.354 as it applies to Operator's Convair 580 all cargo aircraft operated under Part 121. Exemption to be effective immediately and terminate 180 days after final rulemaking associated with the proposed weight increase under Part 135.

International Operation:

Air Tahoma operates aircraft in Canada, Mexico and South East Asia. None of these countries require the terrain awareness and warning system contemplated under Part 121.354. Air Tahoma's competitors operating under Part 129 are exempt from compliance with Part 121.354. As such, the requested exemption will have no impact of Air Tahoma's international operations.

Regards,

AIR TAHOMA, INC.

**Noel Rude
President**